

**REMARKS**

By this Amendment, Applicant has amended claims 1, 36, 71, and 112, and added new claim 113. Claims 1-6, 8-41, 43-76, and 78-113 are pending.

In the outstanding Final Office Action dated November 30, 2005, the Examiner rejected claims 1-9, 14-44, 49-79, and 84-105 under 35 U.S.C. § 103(a) as being unpatentable over Gardenswartz et al. (U.S. Patent No. 6,055,573) in view of Scroggie et al. (U.S. Patent No. 5,970,469); rejected claims 10-13, 45-48, and 80-83 under 35 U.S.C. § 103(a) as being unpatentable over Gardenswartz et al. in view of Scroggie et al. and further in view of Wexler (U.S. Patent No. 5,960,409); and rejected claims 106-111 under 35 U.S.C. § 103(a) as being unpatentable over Gardenswartz et al. in view of Scroggie et al. and further in view of Walker et al. (U.S. Patent No. 5,945,653). Applicant respectfully traverses these rejections for the reasons below.<sup>1</sup>

Applicant appreciates the courtesy extended by Examiner Lastra in allowing Applicant's representatives to discuss the pending claims during an interview on January 31, 2006. During the interview, as characterized by the Examiner in the Interview Summary Record, the Examiner alleged that Gardenswartz et al.'s teaching of "purchase behavior classification" constituted "determining attributes," as recited in independent claims 1, 36, 71, and 112. Applicant respectfully disagrees with the

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<sup>1</sup> Any silence by Applicant to certain assertions or requirements applicable to any of the Examiner's objections or rejections (e.g., whether a reference constitutes prior art, motivation to combine references, etc.) is not a concession by Applicant that such assertions are accurate or that such requirements have been met, and Applicant reserves the right to analyze and dispute such in the future. Further, the Office Action contains statements characterizing the related art and the claims. Regardless of whether any such statements are identified herein, Applicant declines to automatically subscribe to any statement in the Office Action.

Examiner's allegation. However, to expedite prosecution, Applicant has amended independent claims 1, 36, 71, and 112 to recite wherein "at least one of the attributes includes at least one of financial information associated with the first group of consumers or loyalty information associated with the first group of consumers." The cited references, either alone or in any reasonable combination, fail to teach or suggest at least this element. That is, Gardenswartz et al.'s alleged teaching of classifying consumers based on purchase behavior does not constitute "determining attributes of a first group of consumers in a market population of consumers who have purchased an item . . . wherein at least one of the attributes includes at least one of financial information associated with the first group of consumers or loyalty information associated with the first group of consumers," as recited in independent claims 1, 36, 71, and 112. Moreover, Scroggie et al., Wexler et al., and Walker et al. also fail to teach at least this element. Accordingly, Applicant submits that independent claims 1, 36, 71, and 112 are allowable.

Claims 2-6, 8-35, 37-41, 43-70, 72-76, 78-111, and 113 depend from claims 1, 36, or 71. As explained, claims 1, 36, and 71 recite elements not disclosed or suggested by the cited references. Accordingly, claims 2-6, 8-35, 37-41, 43-70, 72-76, 78-111, and 113 are allowable over the cited references for at least the same reasons as claims 1, 36, and 71. Applicant, therefore, respectfully requests that the rejection of these claims under 35 U.S.C. § 103(a) be withdrawn and the claims allowed. Moreover, newly added claim 112 recites additional features not taught or suggested by the cited references. Therefore, claim 112 is allowable for this additional reason.

In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Dated: February 28, 2006

By: \_\_\_\_\_



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